

Remarks

This Amendment is in response to the Final Office Action dated **January 29, 2010**. In the Final Office Action, claim 24 was rejected under 35 USC 112, second paragraph; claims 1, 2, 4, 5, 10, and 21 were rejected under 35 USC 103(a) as being unpatentable over Brand (2003/0183226) in view of Jansen (6,778,917); claims 3, 7, and 8 were rejected under 35 USC 103(a) as being unpatentable over Brand (2003/0183226) in view of Jansen (6,778,917), further in view of Curry (6,814,293); claims 22, 24, 25-28, 31, 33, 37, and 39 were rejected under 35 USC 103(a) as being unpatentable over Brand (2003/0183226) in view of Jansen (6,778,917), further in view of Hubbard (6,577,961); claims 23, 29, 30, and 34-36 were rejected under 35 USC 103(a) as being unpatentable over Brand (2003/0183226) in view of Curry (6,814,293); and claims 32 and 38 were rejected under 35 USC 103(a) as being unpatentable over Brand (2003/0183226) in view of Jansen (6,778,917), further in view of Hubbard (6,577,961), and further in view of Curry (6,814,293).

Amendments to the Claims

To further prosecution, Applicants have cancelled claims 1-5, 7-8, 10, 21-22, 25-26, 28, and 31-33 without prejudice. Applicants reserve the right to pursue these claims in a continuation application. Cancellation of claims 1-5, 7-8, 10, 21-22, 25-26, 28, and 31-33 without prejudice renders their rejection moot. Therefore, the rejections of those claims are not addressed herein.

35 USC 112

In the Final Office Action, claim 24 was rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Final Office Action asserted that there is insufficient antecedent basis for “the date of next calibration” in claim 24. Applicants have amended claim 24 to recite “further wherein a date of next calibration is stored into the transponder as application-related specific

data.” Applicants submit that claim 24 as amended provides sufficient antecedent basis.

The Final Office Action also asserted that “there is no mention of a first or initial calibration, thus the examiner is unclear as to why the system is discussing and storing a ‘next’ calibration when no mention of an originating calibration is disclosed.” The instant application discloses that an initial calibration is one type of production-related specific data.¹ Thus, when the proportioning device undergoes calibration by the user, it is a “next” calibration.² Applicants further submit that one of ordinary skill in the art understands that proportioning devices are calibrated as part of the production process.

Based on the above, Applicants submit that claim 24 complies with 35 USC 112, second paragraph. Applicants request withdrawal of the rejection.

35 USC 103 – Brand, Jansen, and Hubbard

In the Final Office Action, claims 22, 24, 25-28, 31, 33, 37, and 39 were rejected under 35 USC 103(a) as being unpatentable over Brand (2003/0183226) in view of Jansen (6,778,917), further in view of Hubbard (6,577,961).

As discussed above, claims 22, 25-26, 28, 31, and 33 have been cancelled without prejudice.

Independent claim 24 recites in part:

during use of the proportioning device, storing application-related data about the proportioning device in the transponder using the writing device ...

further wherein a date of next calibration is stored into the transponder as application-related specific data

Applicants submit that the combination of Jansen, Brand, and Hubbard does not teach or suggest each and every element of independent claim 24.

Jansen discloses a method for driving an electronic metering system with an electrical hand metering device such as an electronic pipetting device. However, Jansen does not

¹ Application as filed, page 1, lines 15-16 and page 4, lines 1-8.

² Application as filed, page 1, lines 20-22 and page 4, lines 15-22.

disclose calibration data as asserted in the Final Office Action. A copy of column 4, lines 37-55 of Jansen, cited in the Final Office Action, is provided for reference:

Thus the invention permits the fixing of specific parameters of the metering device only after the apparatus assembly, even if this includes the installation of a building
40 block with fixed programmed-in software. By way of this it becomes possible for various apparatus models to use one and the same software and electronics hardware. The respective parameters may be fixed according to requirements or even changed. In the extension of this concept even a fixing
45 or change, specific to apparatus type and to apparatus, of program parts or of the whole program is possible. By way of the ability to store user parameters by way of an external computer an additional advantageous operating possibility is created. The invention also favors the automisation of the
50 calibration and of the end control in the manufacture. A simple update to new operating parameters is made possible for the service. The OEM customer may in turn carry out a parameterization for special OEM metering parts. The GLP parameter documentation is made simple for the user and a
55 simplified calibration with PC software is made possible. Also the incorporation into automisation processes is simplified for the user and a remote control is made possible.

As discussed in the previous amendment, statements such as “[t]he invention also favors the automisation of calibration” and “simplified calibration with PC software is made possible” do not teach or suggest that calibration data is stored into the transponder, let alone storing a date of next calibration into the transponder as application-related specific data. This was noted in the Final Office Action which stated that “Jansen is not as detailed with respect to storing a date of next calibration.”

Hubbard does not teach or suggest storing a date, at which another calibration is to be performed, in the transponder. The Final Office Action refers to col. 17-18, lines 40-67 and 1-2 and col. 24, lines 17-20 of Hubbard in support of the assertion that Hubbard discloses storing a date of next calibration. At col. 17-18, lines 40-60 of Hubbard, Table 4 provides four different ways that the conversion functions cause the fields to be interpreted and at col. 17, line 61 to col. 18, line 40, Hubbard provides meanings for terms found in Table 4. It is unclear how a table directed to interpretation of the fields teaches or suggests storing a date at which another

calibration is to be performed. Column 24, lines 17-20 of Hubbard discloses that the “meter can also record the start and end time and date of the event in an event log” and that “[t]he exact action of the meter is defined by the meter configuration.” These statements of Hubbard also do not teach or suggest storing a date at which another calibration is to be performed. If the rejection is maintained, Applicants request clarification regarding the relevance of Hubbard to the instant claims.

Furthermore, Applicants disagree that one would modify the medicament dispensers of Brand by Jansen and Hubbard as asserted in the Final Office Action. First, Brand does not teach or suggest that the medicament dispenser is calibrated or requires calibration and the Final Office Action has not provided any evidence that the medicament dispensers disclosed in Brand are calibrated. Since Brand does not teach or suggest that the medicament dispenser requires calibration, there is no motivation to modify the device of Brand as asserted in the Final Office Action.

Based on the above, the combination of Brand, Jansen and Hubbard does not render independent claim 24 obvious. Applicants request withdrawal of the rejection and submit that claims 24, 37, and 39 are in condition for allowance.

35 USC 103 – Brand and Curry

In the Final Office Action, claims 23, 29, 30, and 34-36 were rejected under 35 USC 103(a) as being unpatentable over Brand (2003/0183226) in view of Curry (6,814,293).

Independent claim 23 recites in part:

during use of the proportioning device, storing application-related data about the proportioning device in the transponder using the writing device,

during use of the proportioning device or during maintenance or repair of the proportioning device, fully or partially reading out the stored production related data and the application related data using the reading device ...

further wherein maintenance and/or repair data is stored into the transponder as application-related specific data

The Final Office Action asserted that “Brand is not as detailed with the data being

maintenance and/or repair data” and “Curry discloses the stored data being maintenance and/or repair data (column 17, lines 2-7; column 20, lines 36-39, Curry).” Applicants disagree that Curry discloses the stored data being maintenance and/or repair data. Column 17, lines 1-7 of Curry states:

similar symbolologies, it is conceivable that the method of the present invention may also find applications for use with various machine vision or optical character recognition applications in which information is derived from other types of indicia such as characters or from the surface characteristics of the article being scanned.

It is unclear how a statement that the method of Curry may be used in other applications teaches or suggests that maintenance and/or repair data is stored into a transponder as application-related specific data. Applicants submit that col. 17, lines 1-7 of Curry does not teach or suggest storing maintenance and/or repair data into a transponder as application-related specific data, as recited in claim 23.

Column 20, lines 29-41 of Curry states:

30 In linking a scanner to an individual base unit or cradle
only when required, the retailer or system owner need not
necessarily maintain the same number of scanners as base
units. With such an arrangement, the number of scanners
required is not determined by the number of base units, but
35 the number of users that are likely to wish to undertake
scanning operations at any one time. The pool of uncom-
mitted scanners has a number of further advantages, includ-
ing lower maintenance overheads, and the possibility for
each user to select a scanner of his or her choice. That may
be advantageous if for example some users find it easier to
40 operate one particular model of scanner, and others find it
easier to use a different model.

As can be seen above, this portion of Curry is discussing that the number of scanners can be based on the number of users that would use a scanner at the same time, and not based on the number of base units, which can result in lower maintenance overheads. Having lower maintenance overheads because fewer scanners are being used does not teach or suggest storing maintenance and/or repair data into a transponder as application-related specific data, as recited in claim 23. If the rejection is maintained, Applicants request clarification regarding the

relevance of Curry to the instant claims.

Based on the above, Applicants submit that the combination of Brand and Curry does not teach or suggest each and every element of independent claim 23. Applicants request withdrawal of the rejection and submit that claims 23, 29, 30, and 34-36 are in condition for allowance.

35 USC 103 – Brand, Jansen, Hubbard, and Curry

In the Final Office Action, claims 32 and 38 were rejected under 35 USC 103(a) as being unpatentable over Brand (2003/0183226) in view of Jansen (6,778,917), further in view of Hubbard (6,577,961), and further in view of Curry (6,814,293).

As discussed above, claim 32 was cancelled.

Claim 38 depends upon independent claim 24. As discussed above, the combination of Brand, Jansen, and Hubbard does not teach or suggest each and every element of independent claim 24. The Final Office Action asserted that “Curry discloses a beginning stage of assembling a proportioning device.” Applicants disagree with the characterization of Curry. Specifically, Curry does not teach or suggest assembling a proportioning device as asserted in the Final Office Action. Instead, Curry discloses “an arrangement for and a method of establishing a logical relationship among peripherals in a wireless local area network managed by a system manager” (col. 5, lines 24-26). Column 17, lines 8-24 of Curry, cited in the Final Office Action, discusses a scanner, “fabricated as a single printed circuit board or integral module,” that can be used in different scanner embodiments. Applicants were unable to find any disclosure in Curry regarding pipettes or dispensers, dispensing or metering liquid or medication, calibration, or the manufacture/assembly of pipettes or dispensers. If the rejection is maintained, Applicants request clarification regarding the relevance of Curry to the instant claims. For at least these reasons, Curry does not address the failure of Brand, Jansen, and Hubbard to teach or suggest each and every element of independent claim 24.

Based on the above, the combination of Brand, Jansen, Hubbard, and Curry does not render claim 38 obvious. Applicants request withdrawal of the rejection and submit that claim 38 is in condition for allowance.

Conclusion

Based on at least the above, Applicant respectfully submits that this application is in condition for allowance. Favorable consideration and prompt allowance of 23-24, 27, 29-30, and 34-39 is requested.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,
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